



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

April 14, 1975

The Honorable Fred Head, Chairman
Committee on Higher Education
House of Representatives
State Capitol Building
Austin, Texas 78711

Letter Advisory No. 95

Re: Constitutionality of H. B.
360 relating to deferral of
payment of tuition by veterans.

Dear Representative Head:

You have asked our opinion on the constitutionality of House Bill 360 which is pending before your committee. The bill, if enacted, would require state supported colleges and universities to permit certain veterans to defer payment of tuition and fees not exceeding 60 days, pending their receipt of federal educational benefits to which they are entitled. We are advised by the bill analysis prepared by the House of Representatives that federal administrative delays often cause a veteran's benefit check to be delivered after the date on which payment of tuition and fees is due.

You have not indicated what provisions of the Constitution you believe raise questions as to the Bill's validity; however, we have examined the legislation in light of article 3, section 50, 51 and 52 and article 16, section 6, of the Texas Constitution.

Article 3, section 50 of the Texas Constitution provides:

The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

Article 3, section 51, Texas Constitution, provides in part:

The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; . . .

Article 3, section 55 of the Texas Constitution provides in part:

. . . The Legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual, to this State

Article 16, section 6 of the Texas Constitution provides in part:

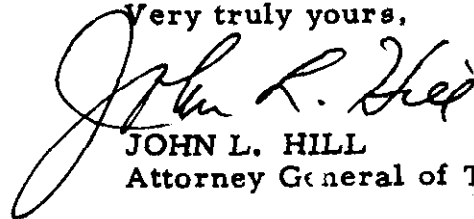
(a) No appropriation for private or individual purposes shall be made, unless authorized by this Constitution. . . .

House Bill 360 merely defers payment of tuition and fees for a period of time which will never exceed 60 days; however, there are many other statutes by which the State offers far more substantial educational benefits to students. These include complete exemption from tuition, and in some cases, from other other dues, fees and charges. See e. g., Texas Education Code, §§ 54.201 (highest ranking high school graduate); 54.202 (high school graduates of state homes); 54.203 (certain veterans and their families); 54.204 (children of disabled firemen and peace officers); 54.205 (certain blind and deaf students); 54.206 (students from low-income families); 54.207 (students from Western Hemisphere countries); 54.208 (firemen); 54.209 (children of prisoners of war or persons missing in action); 54.101 (needy resident students); 54.102 (needy nursing students). The State has also provided tuition equalization grants for students in private schools. Tex. Educ. Code, § 61.221 et seq. And see Attorney General Opinions H-512 (1975); H-485 (1974); H-66 (1973); Letter Advisory No. 47 (1973). It has been held that scholarship and tuition grant programs do not constitute unconstitutional grants of public money. Attorney General Opinion M-391 (1969); see Attorney General Opinion C-474 (1965). If an exemption from tuition is not an unconstitutional grant of public money, we believe it is clear that a deferral of tuition payments also does not suffer from that constitutional infirmity. Nor do we believe that this type postponement of the date on which payment of tuition and fees is due is an unconstitutional lending of credit or release of obligation. McCarty v. James, 453 S.W. 2d 220 (Tex. Civ. App. -- Austin 1970, writ ref'd. n.r.e.);

Attorney General Opinion M-864 (1971).

Accordingly, it is our view that House Bill 360 is constitutional.

Very truly yours,



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APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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